

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3088 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DIVISIONAL CONTROLLER

Versus

LALSINGBHAI K BARIYA

Appearance:

MR KN RAVAL for Petitioner

MR BG JANI for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 02/05/2000

ORAL JUDGEMENT

Heard Mr. Hardhik Raval, learned counsel for the
petitioner, and Mr. B.G. Jani, learned counsel appearing
on behalf of the respondent.

2. Present petition has been filed by Divisional Controller, Gujarat State Road Transport Corporation Limited, for quashing the award passed by the Labour Court, Vadodara on 30-9-1989 in Reference No. (LCV) No. 318 of 1987. Learned counsel for the petitioner Mr. Raval submits that, the Labour Court has found that the respondent was negligent in performing his duty, and has awarded the punishment of not paying the backwages. Learned counsel for the petitioner submitted that the petitioner is a Badli worker and he is not a regular employee of the petitioner and therefore, there is no question of payment of backwages. Learned counsel for the petitioner further submitted that, as a Badli worker whenever the respondent is called on for duty he is paid on daily wage basis. Learned counsel consequently submitted that, since there is no question of payment of backwages to the respondent the punishment awarded by the Labour Court has become meaningless. Learned counsel for the petitioner very fairly submitted that the case was filed in 1990 and in the meantime the respondent might have been regularly appointed in State Road Transport Corporation. Learned counsel for the petitioner further submitted that, since the Labour Court has held that the respondent was negligent in performing his duty some punishment is required to be awarded to the respondent by modifying the order of the Labour Court.

3. Learned counsel for the respondent Mr. B.G. Jani submitted that the respondent has been regularly appointed in Gujarat State Road Transport Corporation and he is performing his duty. It is not disputed by the learned counsel for the respondent that, since the respondent was a Badli worker there is no question of payment of backwages. However learned counsel submitted that since respondent has been regularly appointment he may not be awarded any penalty at this stage. This petition is pending for more than ten years and in the meantime because of the pendency of this petition, I am of the view that the petitioner has suffered sufficient mental agony, and therefore, at this stage no penalty is required to be imposed. However the petitioner Corporation may warn the respondent Shri. Lalsingbhai Kaljibhai Bariya about his negligence in performing the duty and may also make it clear to him that any negligence on his part in future in performing the duty will entail him to face the disciplinary proceedings. With the aforesaid observations this writ petition is disposed of. Rule discharged. I make no order as to costs.

Dt: 2-5-2000

/vgn